

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MICHAEL TEE STOKES SR.,)
)
)
Plaintiff,) 4:16CV3027
)
)
v.)
)
SCOTT WHITE, and KEARNEY)
COUNTY, NEBRASKA,)
)
)
Defendants.)
)

ORDER

This court entered Judgment in this case on August 31, 2017, dismissing this case without prejudice for failure to exhaust administrative remedies under the Prison Litigation Reform Act. (Filing No. [74](#).) In its Judgment, the court inadvertently neglected to warn Plaintiff that **the filing of a notice of appeal will make him liable for payment of the full \$505.00 appellate filing fee regardless of the outcome of the appeal.** This is because the Prison Litigation Reform Act requires an incarcerated civil appellant to pay the full amount of the \$505.00 appellate filing fee by making monthly payments to the court, even if he or she is proceeding in forma pauperis. [28 U.S.C. § 1915\(b\)](#). By filing a notice of appeal, Plaintiff will be consenting to the deduction of the \$505.00 filing fee from his prison account by prison officials.

Without the benefit of the above information, Plaintiff filed a Notice of Appeal on September 18, 2017. (Filing No. [75](#).) Out of an abundance of caution, the court shall grant Plaintiff leave to withdraw his appeal, if desired, in light of the above information. If Plaintiff still wishes to pursue his appeal, the court shall grant Plaintiff leave to proceed in forma pauperis on appeal.

Accordingly,

IT IS ORDERED:

1. On or before October 6, 2017, Plaintiff shall file a document in the above-captioned case indicating whether he wishes to pursue his appeal in light of the fact that **filing of a notice of appeal will make him liable for payment of the full \$505.00 appellate filing fee regardless of the outcome of the appeal**;
2. If Plaintiff wishes to pursue his appeal in light of the information provided to him in this order, the court shall grant Plaintiff leave to proceed in forma pauperis on appeal and shall process the appeal; and
3. The Clerk of Court shall set a pro se case management deadline as follows: October 6, 2017—Plaintiff to advise court whether he wishes to pursue appeal.

DATED this 19th day of September, 2017.

BY THE COURT:
s/ Richard G. Kopf
Senior United States District Judge